

## **CIVIL SERVICE COMMISSION MINUTES**

**January 17, 2001**

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Mary Gwen Brummitt  
Sigrid Pate  
Gordon Austin  
Barry I. Newman

Absent was:

Roy Dixon

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer  
Ralph Shadwell, Senior Deputy County Counsel  
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES  
January 17, 2001

1:30 p.m.      CLOSED SESSION:    Discussion of Personnel Matters and Pending Litigation

2:30 p.m.      OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
14,15,16,17	5,13		4,15

COMMENTS Motion by Pate to approve all items not held for discussion; seconded by Newman. Carried.

**CLOSED SESSION AGENDA**  
**County Administration Center, Room 458**  
**(Notice pursuant to Government Code Sec. 54954.2)**  
**Members of the Public may be present at this**  
**location to hear the announcement of the**  
**Closed Session Agenda**

A.    Commissioner Dixon: Sanford Toyen, Esq., on behalf of **Paul LaCroix**, Deputy Sheriff, appealing an alleged disciplinary reassignment with the Sheriff's Department. (Pre-hearing conference)

B.    Commissioner Pate: **James Toothaker**, Supervising Probation Officer, Department of Probation, alleging retaliation discrimination by the Department of Probation. Representatives from the Office of Internal Affairs will be present.

C.    Commissioner Pate: **Michael Porter, Ph.D.**, Protective Services Worker II, Health and Human Services Agency (HHSA), alleging disability discrimination by the HHSA. Representatives from the Office of Internal Affairs will be present.

D.    Commissioner Newman: **Michael Chase**, Eligibility Technician, HHSA, alleging national origin and age discrimination by the Department of Human Resources and the HHSA. Representatives from the Office of Internal Affairs will be present.

**REGULAR AGENDA**  
**County Administration Center, Room 358**

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and approved by the President of the Commission.

## **ELECTIONS**

1. Election of President and Vice-President of the Commission for 2001.

**Motion by Pate to nominate Brummitt as President and Austin as Vice-President for 2001; seconded by Newman. Carried.**

## **MINUTES**

2. Approval of the Minutes of the regular meeting of December 6, 2000.

**Approved.**

## **CONFIRMATION OF ASSIGNMENTS**

3. Commissioner Brummitt: **Christopher Kolesar**, former Eligibility Technician, appealing an Order of Removal and Charges from the Health and Human Services Agency.

**Confirmed.**

## **WITHDRAWALS**

4. Commissioner Pate: Richard Pinckard, Esq., on behalf of **Peter Sheppard**, Deputy Sheriff, appealing an Order of Reassignment and of Pay Step Reduction and Charges from the Sheriff's Department.

**Withdrawn.**

## **DISCIPLINES**

5. Commissioner Dixon: Sanford Toyen, Esq., on behalf of **Paul LaCroix**, Deputy Sheriff, appealing an alleged disciplinary reassignment within the Sheriff's Department. (Pre-hearing conference)

## **FINDINGS AND RECOMMENDATIONS:**

**Continued.**

## **DISCRIMINATION**

### **Complaints**

6. **Robert Crayton**, former Stock Clerk, Sheriff, alleging race discrimination by the Sheriff's Department.

**RECOMMENDATION:** Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

**Staff recommendation approved. Commissioner Austin assigned as hearing officer.**

7. **Rea Alvarez**, Senior Clerk, HHSA, alleging national origin, gender, age, and retaliation discrimination by the Office of the District Attorney (former department).

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

**Staff recommendation approved. Commissioner Dixon assigned as hearing officer.**

### **Findings**

8. Commissioner Pate: **James Toothaker**, Supervising Probation Officer, Department of Probation, alleging retaliation discrimination by the Department of Probation. (See also No. 13 below.)

#### **FINDINGS & RECOMMENDATIONS:**

At the regular meeting of the Civil Service Commission on December 6, 2000, the Commission appointed Sigrid Pate to investigate the complaint submitted by Complainant. The complaint was referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that probable cause was established in this matter. It is therefore recommended that: (1) James Toothaker's complaint be pursued and the matter proceed under the provisions of Rule VI of the Civil Service Rules; (2) a hearing officer be assigned to conduct a Rule VI hearing and (3) the Commission approve and file this report.

**Motion by Pate to approve Findings and Recommendations; seconded by Austin. Carried. Commissioner Pate assigned.**

9. Commissioner Pate: **Michael Porter, Ph.D.**, Protective Services Worker II, HHSA, alleging disability discrimination by the HHSA.

#### **FINDINGS & RECOMMENDATIONS:**

At the regular meeting of the Civil Service Commission on October 6, 1999, the Commission appointed Sigrid Pate to investigate the complaint submitted by Complainant. The complaint was referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that complainant failed to establish allegations of disability discrimination, and probable cause that a violation of discrimination laws occurred was not established. It is therefore recommended that: (1) this complaint be denied; and (2) the Commission approve and file this report with a findings of no probable cause that Complainant has been discriminated against on any basis protected by law.

**Motion by Dixon to approve Findings and Recommendations; seconded by Newman. Carried.**

10. Commissioner Newman: **Michael Chase**, Eligibility Technician, HHSA, alleging national origin and age discrimination by the Department of Human Resources and the HHSA.

#### FINDINGS & RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on December 6, 2000, the Commission appointed Barry I. Newman to investigate the complaint submitted by Complainant. The complaint was referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that complainant failed to establish allegations of disability discrimination, and probable cause that a violation of discrimination laws occurred was not established. It is therefore recommended that: (1) this complaint be denied; and (2) the Commission approve and file this report with a findings of no probable cause that Complainant has been discriminated against on any basis protected by law.

**Motion by Newman to approve Findings and Recommendations;  
seconded by Austin. Carried.**

#### SELECTION PROCESS

##### Findings

11. **Loretha Spicer**, appeal of removal of her name by the Department of Human Resources from the employment list for Corrections Deputy Sheriff.

12. **Jeffrey Clayson**, appeal of removal of his name by the Department of Human Resources from the employment list for Corrections Deputy Sheriff.

RECOMMENDATION: Ratify item Nos. 11 & 12. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2.

**Item Nos. 11 & 12 ratified.**

#### INVESTIGATIONS

13. **James Toothaker**, Supervising Probation Officer, Department of Probation, requesting an investigation into the personnel practices of the Department of Probation relating to Item No 8.

RECOMMENDATION: Continue until discrimination matter is resolved.

**Continued.**

14. Wendell Prude, S.E.I.U. Local 2028, on behalf of **Ingrid Slettengren**, former Food Services Supervisor, requesting an investigation into the personnel practices of the HHSA.

RECOMMENDATION: Deny Request.

Wendell Prude, representing Ms. Slettengren, addressed the Commission, emphasizing that there was no dispute as to whether appellant had

worked out of class. The only issue before the Commission was compensation. Although Appellant was no longer working for the County, Mr. Prude argued that an investigation was the proper action to be taken at this time.

Charlene Heckeroth for the Department disputed the time frame that Appellant claims she worked out of class. Appellant had generated an employee re-classification study that was found viable by DHR and was subsequently compensated by the Department for 6 months of working out of class.

Larry Cook, Executive Officer, explained that Ms. Slettengren had been given a reasonable offer to settle, which she declined. Due to her resignation from County employment, Mr. Cook felt that it would be counter-productive at this time to conduct an investigation.

The Commission queried County Counsel as to whether or not the Charter authorizes back pay in these types of situations. Ralph Shadwell, Deputy County Counsel replied in the affirmative and added that the language in the Charter "but not limited to" gives the Commission broad authority in these matters.

**Motion by Austin to deny request; seconded by Pate. Carried.  
Newman abstained.**

#### **OTHER MATTERS**

15. Teresa Trucchi, Esq., on behalf of **Esther Rosenberg**, Patient Services Specialist II, HHSA, requesting Commission action under, Rule V (seal performance appraisal covering the period March 26, 1999 to March 26, 2000), Rule VI (Discrimination), Rule XI (Investigation), and Rule XII (Classification).

RECOMMENDATION: Allow Executive Officer and parties to provide verbal input prior to taking formal action.

Teresa Trucchi, representing Employee, addressed the Commission regarding Ms. Rosenberg's requests. She explained that her primary goal on behalf of Employee was to extend an olive branch to the Department because Employee values her position and feels that perhaps the above matters have mushroomed, causing an uncomfortable working environment. Ms. Trucchi explained that Ms. Rosenberg was seeking closure in these matters and therefore wished to withdraw her appeals at this time.

The Commission requested clarification regarding Ms. Rosenberg's request for withdrawal. Ms. Trucchi verified that it was the wishes of Employee to withdraw all appeals (Rules V, VI, XI and XII). In that vein, the Commission complimented Ms. Rosenberg on her attitude and action in these matters.

**Withdrawn.**

## **Seal Performance Appraisal**

16. **Steven Ruff**, Sheriff's Sergeant, requesting the sealing of a performance appraisal for the period April 7, 1999 to April 7, 2000. (Continued from Commission meeting of December 6, 2000.)

RECOMMENDATION: Grant Request

This item was continued from the December 6, 2000 Agenda. The issue of sealing untimely performance appraisals has previously been discussed by the Commission in open session. Sergeant Ruff expressed his views on why his performance appraisal should be sealed.

Tom Reed for the Department explained that a primary concern of the Sheriff's Department is making the performance appraisals vital and timely. He confirmed that appraisals are key tools in an employee's career advancement.

The Commission expressed its frustration in the long-standing inconsistencies regarding timely performance appraisals, and lack of retribution toward a supervisor for rendering a late appraisal (whether the report was favorable or not).

Motion by Austin to deny sealing of performance appraisal. Newman seconded. Motion not carried.

Further discussion by the Commission requested Larry Cook's explanation regarding staff's recommendation to seal the performance appraisal: (a) language contained in Civil Service Rules regarding sealing of performance appraisals; (b) language contained in the Administrative Manual Policies and Procedures; and (c) precedence. County Counsel suggested that this matter be continued to a future meeting wherein all five members of the Commission could be present.

**President, Mary Gwen Brummitt, agreed to a continuance.**

17. **Philip Hill**, Senior Clerk, Department of Probation, requesting the sealing of a performance appraisal for the period May 8, 1999 to January 14, 2000.

RECOMMENDATION: Grant Request.

Commissioner Newman asked that this matter be continued until item No. 16 above is resolved.

**Motion by Newman to continue. Seconded by Pate. Carried.**

An educational workshop to explore the issue of sealing performance appraisals will follow the next scheduled Commission meeting.

## **Ratification of Medical Provider**

18. Ratification of **Michael Patton Kimball, Ph.D.** as an additional name to the list of medical providers to be used for fitness for duty evaluations at the request of the Department of Human Resources.

RECOMMENDATION: Ratify Provider.

**Ratified.**

## **Extension of Temporary Appointments**

19. Health and Human Services Agency

- A. 4 Protective Services Worker I's (Azucena Greenwell, Robyn Lefkowitz, Kenneth Limerick, France Pitt)
- B. 1 Protective Services Worker III (Sandra Arbital)
- C. 1 Residential Care Worker Trainee (Gina Jones)
- D. 1 Residential Care Worker I (Ruth Green)
- E. 1 Legal Procedures Clerk (Margaret Dulac-Shields)

20. Auditor and Controller

- A. 1 Financial Policy & Planning Officer (Penelope Halgren)
- B. 1 Financial Statement Accountant (Eveliza Evans)

21. Sheriff's Department

1 Departmental Clerk (Myriam Huntley)

22. Department of Agriculture Weights and Measures

1 Intermediate Clerk Typist (Gemma Bilog)

RECOMMENDATION: Ratify Item Nos. 19-22.

**Item Nos. 19-22 ratified.**

23. Public Input.

ADJOURNMENT: 3:50

**NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE FEBRUARY 7, 2001.**